

SUMMARY REPORT OF INVESTIGATION**I. EXECUTIVE SUMMARY**

Date of Incident:	June 7, 2018
Time of Incident:	18:30
Location of Incident:	[REDACTED]
Date of COPA Notification:	June 8, 2018
Time of COPA Notification:	15:12

Mr. [REDACTED] alleged that the accused, Officer [REDACTED] entered onto his property and shot his dog without lawful justification.

II. INVOLVED PARTIES

Involved Officer #1:	Star # [REDACTED] Employee # [REDACTED] DOA [REDACTED], Unit 015, DOB [REDACTED], 1981, M, White
Involved Individual #1:	[REDACTED] DOB [REDACTED], 1975, M, Blk

III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Unlawfully entered [REDACTED] back yard in violation of Amendment IV of the United States Constitution. 2. Shot the Involved Individual's dog, without justification, in violation of Rule 1, 38.	Exonerated
		Exonerated

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 38: Unlawful or unnecessary use or display of a weapon.

General Orders

1. G03-02 – Use of Force- Effective October 16, 2017

Federal Laws

1. United States Constitution, Amendment IV

V. INVESTIGATION

a. Interviews

In his statement to COPA¹ on June 8, 2018, [REDACTED] stated that on June 7, 2018 at approximately 6:30pm, he heard his dog growl and then heard one gun shot. Mr. [REDACTED] said after he heard the gun shot, he went onto his second-floor back porch and saw his dog on the ground. He saw Officer [REDACTED] walking along the side of the building and asked him what happened to his dog. Mr. [REDACTED] explained Officer [REDACTED] told him someone ran into the back yard and he was chasing this person. Officer [REDACTED] told him that when he entered the back yard, the dog bit him. Mr. [REDACTED] said Officer [REDACTED] showed him the area of his leg where he was bitten but he did not see any bite marks on the officer's leg. Mr. [REDACTED] explained he did not see anyone run through his back yard or the interaction between Officer [REDACTED] and his dog. Mr. [REDACTED] stated he was on the second-floor porch and could not see down into the yard, where the incident occurred. Mr. [REDACTED] said his dog was secured to a pole, with a two or three-foot leash, and the dog weighed 110 pounds.

In his statement to COPA² on July 9, 2018, Accused Officer [REDACTED] stated he was assisting officers with a foot pursuit of a subject. Officer [REDACTED] explained he ran parallel to the subject when he entered the front yard at 101 S. Parkside. He ran down the gangway of the building and entered the back yard of the residence. Officer [REDACTED] said he saw the dog when he reached the end of the gangway. He said the dog was approximately 10 feet away in the yard and he stopped running when he saw the dog. He explained that he looked down to avoid eye contact with the dog and turned his body sideways. Officer [REDACTED] said that action was to deescalate the dog's aggression. He stated, the dog then growled at him. He turned to retreat through the gangway. As he ran away, the dog charged him and bit him in the back of the knee. He explained he tried to pull his leg from the dog's mouth, but the dog was shaking its head violently. He feared great bodily harm by the dog, so he pulled out his service weapon and shot the dog. Officer [REDACTED] explained he was unaware the dog was restrained by a leash. Officer [REDACTED] reported that the back of his knee was red and bruised in the area where the dog bit him. He was transported to the hospital where he was treated for the dog bite.

b. Digital Evidence

The **Crime Scene Evidence Photographs**³ include photographs of Officer [REDACTED] jeans with two holes on the right leg of the jeans, and red marks on the back of his right knee and leg.

The **Body Worn Camera** footage for this incident does not capture Officer [REDACTED] interaction with the dog because he was not wearing a body worn camera. The footage captured is that of officers who responded to Mr. [REDACTED] 911 call after the incident occurred.

¹ Att. 15

² Att. 22

³ Att. 28

c. Documentary Evidence

City of Chicago Fire Department records,⁴ dated June 6, 2018, document Officer [REDACTED] cause as animal bite and stated that teeth marks are visible on the right calf and back of knee. The report states Officer [REDACTED] was transported to Northwestern Hospital for treatment.

The **Chicago Police Department Original Case Incident Report,**⁵ RD# [REDACTED] states Officer [REDACTED] was assisting in a foot pursuit at the location of [REDACTED]. It reports that he was paralleling another officer involved in the chase when he entered the gangway of the residence, through an unsecured gate, and proceeded to the back yard. He entered the back yard where he encountered a female boxer dog. The dog charged toward him, causing Officer [REDACTED] to retreat through the gangway. During this retreat, the dog bit him and fearing being bitten again, Officer [REDACTED] discharged one round, from his service weapon, destroying the dog.

The **Chicago Police Department Original Case Incident Report,**⁶ RD# [REDACTED] states that officers were patrolling an area plagued by gang violence and narcotic sales, when they observed an unknown male trying to solicit the sale of cannabis. The report explains the officers approached the unknown male and he began to flee, running north bound in the east alley of [REDACTED]. The report states that during the foot chase, Officer [REDACTED] was bit by a dog and discharged his service weapon.

The medical records from Northwestern Memorial Emergency Department⁷ lists the chief complaint as a patient with a dog bite and notes state that there are bite marks in the right pant leg and superficial abrasions behind right knee.

VI. ANALYSIS

COPA recommends a finding of **Exonerated** for allegations #1 against Officer [REDACTED]

The Fourth Amendment typically requires a warrant to conduct a search, especially of private property, but that requirement is excused when an officer faces exigent circumstances. *People v. Foskey*, 136 Ill. 2d 66, 74 citing *Payton v. New York*, 445 U.S. 573, 63 L. Ed. 2d 639 (1980). Key to the inquiry is whether it was reasonable for an officer on the scene to believe, considering the circumstances he faced, there was a compelling need to act and no time to obtain a warrant. *United States v. Williams*, 79 F. Supp. 3d 888, 894 citing *Sutterfield v. City of Milwaukee*, 751 F.3d 542, 557 (7th Cir. 2014). Relevant factors for determining whether exigent circumstances existed include whether: (1) the crime under investigation was recently committed; (2) there was any deliberate or unjustified delay by the police during which time a warrant could have been obtained; (3) a grave offense was involved, particularly a crime of violence; (4) there was reasonable belief that the suspect was armed; (5) the police officers were acting on a clear showing of probable cause; (6) it was likely that the suspect would escape if he was not swiftly

⁴ Att. 26

⁵ Att. 18

⁶ Att. 13

⁷ Att. 29

apprehended; (7) there was strong reason to believe that the suspect was in the premises; and (8) the nonconsensual entry was made peaceably. *People v. Martin*, 2017 IL App (1st) 143255. No list of factors is exhaustive and the factors listed above are guidelines, rather than cardinal maxims to be applied rigidly in each case. *Id.* The cornerstone of an exigency analysis is whether the police officers acted reasonably, a determination made by considering the totality of the circumstances confronting the officers when the entry was made. *Id.*

Here, Officer [REDACTED] was part of a law enforcement team on patrol for illegal narcotics activity. They observed a subject soliciting cannabis. Based on that observation, officers approached the subject to further investigate. See *People v. James*, 365 Ill. App. 3d 847, 849 (Reasonable suspicion for an investigative detention or Terry stop exists were there are specific and articulable facts that a subject's behavior is consistent with solicitation.) The subject fled. Officer [REDACTED] paralleled the subject's flight path on foot. The chase brought him to a private residence at [REDACTED]. There, Officer [REDACTED] ran through a gangway into the backyard of that residence. Although Officer [REDACTED] made a warrantless entry onto private property, the totality of the circumstances suggests exigency justified the intrusion. All of the considerations to determine whether exigent circumstances existed were not met, it was a nonviolent offense and there was no reason to believe the suspect was armed or dangerous, but several factors were satisfied: 1) officers observed a crime committed moments before the chase; 2) there was no deliberate or unjustified delay by the police during which a warrant could have been obtained; 3) officers had reasonable suspicion to detain the subject; 4) the subject was likely to escape; 5) Officer [REDACTED] had reasonable belief entry onto the property was necessary to seize the subject; and 6) Officer [REDACTED] peaceably made entry onto the property through an unlocked fence.

Police officers may enter premises without a warrant when they are in hot pursuit of a fleeing suspect. *Kentucky v. King*, 563 U.S. 452, 452. The calculus of reasonableness for purposes of the exigent circumstances exception to the warrant requirement must embody allowance for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving. *Id.* Here, Officer [REDACTED] was in hot pursuit of a fleeing suspect when he decided to enter [REDACTED]. He limited his intrusion to the backyard, the area of the property necessary to catch the fleeing subject. Further, Officer [REDACTED] limited his intrusion to outside the home. See *Kendall v. Olsen*, 237 F. Supp. 3d 1156, 1165 (The manner of searching is reasonable when the intrusion is no greater than necessary given the exigency; A sweep of the curtilage is less intrusive than breaking down a locked door and searching a living room, which is less intrusive than rummaging through a closet in the bedroom, and so forth. The Fourth Amendment cabins the intrusiveness of any search by demanding that the manner of the search be reasonable.) The less intrusive the seizure and the more compelling the government's justification for it, the more likely it is to be constitutional. *Id.* For those reasons, COPA recommends a finding of Exonerated for allegation #1.

COPA recommends a finding of **Exonerated** for allegation #2 against Officer [REDACTED]

Nearly "[e]very circuit that has considered the issue has held that the killing of a companion dog constitutes a 'seizure' within the meaning of the Fourth Amendment." *Flint v. City of Milwaukee*, 91 F. Supp. 3d 1032, 1042; see also *Carroll v. Cty. of Monroe*, 712 F.3d 649, 651

(2d Cir. 2013) ("As a number of our sister circuits have already concluded, the unreasonable killing of a companion animal constitutes an unconstitutional 'seizure' of personal property under the Fourth Amendment."). And the Seventh Circuit holds the use of deadly force against a household pet is reasonable only if the pet poses an immediate danger and the use of force is unavoidable. *Id.* Whether a dog poses an imminent threat is judged from the perspective of a reasonable officer at the scene, rather than with the 20/20 vision of hindsight. In other words, the question is not whether the dog, in retrospect, posed an imminent threat, but instead whether a reasonable officer on the scene would perceive it that way. *Id.*

Here, while pursuing a fleeing suspect, Officer [REDACTED] unexpectedly encountered a 110-pound dog within ten feet. He tried a de-escalation technique to ease the dog's aggression. The dog responded with a growl loud enough to be heard by Mr. [REDACTED] who was inside his home on the second-floor. Officer [REDACTED] then tried to retreat through the gangway. That did not work either. The dog bit into the back of Officer [REDACTED] knee while violently shaking its head. The attack is corroborated by pictures of Officer [REDACTED] torn jeans and the bruised back of his knee taken the day of the incident.⁸ A reasonable officer in Officer [REDACTED] position would see the dog as not only an imminent threat, but an actual threat. Officer [REDACTED] had a split-second to assess the situation and react. Discharging his firearm was the last resort, after exhausting other options. Given the totality of the circumstances, Officer [REDACTED] firearm discharge was a reasonable response to quell the danger he faced.

CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	1. Unlawfully entered [REDACTED] back yard in violation of Amendment IV of the United States Constitution. 2. Shot the Involved Individual's dog, without justification, in violation of Rule 1, 38.	Exonerated
		Exonerated

Approved:

[REDACTED]

Date

Deputy Chief Administrator – Chief Investigator

⁸ Attachment 28.

Appendix A

Assigned Investigative Staff

Squad#:	12
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	[REDACTED]
*Attorney:	[REDACTED]